

Appln No. 10/510,617
Amdt date March 17, 2008
Reply to Office action of February 1, 2008

REMARKS

Claims 11-16 are pending in the application. In response to the Restriction Requirement, Applicants elect Group I (claims 11, 12, and 15), directed to a pharmaceutical composition for treating rheumatism consisting essentially of: *Tripterygium hypoglaucum*, *Epimedium brevicornum*, *Lycium barbarum*, and *Cuscuta chinensis* or *Cuscuta australis*. The election is made without traverse. Applicants understand that, if the product claims are found to be patentable, process claims that depend from or otherwise include all limitations of the product claims will be reentered as a matter of right.

Applicants have amended claim 11 to replace the transition phrase "consisting essentially of" with "consisting of." No new matter has been added. As amended, claim 11 recites:

A pharmaceutical mixture for treating rheumatism, consisting of:
Tripterygium hypoglaucum (Levl.) Hutch. 1-4 parts by weight;
Epimedium brevicornum Maxim. 1-4 parts by weight;
Lycium barbarum L. 1-4 parts by weight; and,
Cuscuta chinensis Lam., or *Cuscuta australis* R. Br., 1-4 parts by weight.

Applicants respectfully submit that claim 11, and dependent claims 12 and 15, are allowable over the cited references. The primary reference, **Xu et al.** (CN1178697A), teaches a multi-component medicine made with centipede, *Tripterygium hypoglaucum* Hutch, giant typhonium herb, ground beetle, root bark of Chinese Hydrangeavike, root of four stamen stephania, root of Mongolian milk vetch, flower of Chinese Azalea, Chinese Taxillus herb, fruit of Barbary Wolfberry (purportedly synonymous with *Lycium barbarum*), and root of oral licorice. **Li et al.** (CN1051859A) teaches a preparation of *Tripterygium wilfordii* hook extract and a beta-cyclodextrin inclusion complex, but doesn't include *Tripterygium hypoglaucum* (Levl.) Hutch. Importantly, *Tripterygium wilfordii* and *Tripterygium hypoglaucum* are not the same plant. **Xiong et al.** (CN 1097313A) does not merely teach the use of *Epimedium*

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Brevicornum and ripe fruit of Barbary Wolfberry (*Lycium barbarum*) but, in fact, discloses a "snake spirit" that includes snake meat, Panax notoginseng, Radix Rehmanniae, desert living cistanche, and Radix Angelicae Pubescentis. Wang (CN 1146348A) teaches a concoction that contains some 14 herbal components.

None of these references teach or suggest the four-component preparation recited in Applicants' claims 11, 12, and 15.

Applicants also submit that, even if it were somehow possible to present a prima facie case of obviousness based on the cited references, that case is effectively rebutted by the data presented in the application as filed. Unlike the prior art, the claimed invention provides an effective remedy against rheumatism AND does so without the side effects encountered by, e.g., administration of certain components in isolation, for instance Tripterygium hypoglaucum (Levl.) Hutch. On pages 8-49, the specification describes a number of tests in which the claimed composition (referred to as a "Fenshiping Capsule") was administered to mice to test the safety and efficacy of the invention. As described, it is possible to induce an arthritic response, including inflammation, etc., by administering certain compounds. By co-administering the Fenshiping Capsule, or administering it after the fact, it is possible to inhibit or treat both primary and secondary injury adjuvant arthritis, delayed hypersensitivity, antibody production of hemolysin, activity of certain interleukins, and even certain CD cells.

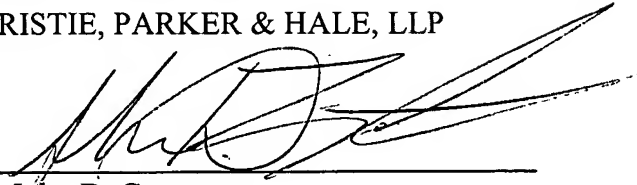
In addition, the claimed composition exhibits a remarkable anti-inflammatory action. The invention can remarkably reduce a number of conditions that are induced in mice in order to test anti-arthritis medications, including swelling of the ear, pleuritis, and the body-twist reaction. Most advantageously, the claimed composition can achieve the desired result **without** the degree of negative side effects caused by the sole administration of Tripterygium hypoglaucum Hutch, including atrophy of various organs, such as testicles, thymus, and spleen. Taken in combination, this is powerful, convincing evidence of the unexpected results achieved by the invention. It is sufficient to rebut any prima facie case of obviousness.

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Accordingly, Applicants respectfully traverse the indicated rejections and ask the Examiner to reconsider the claims and issue a Notice of Allowance.

Respectfully submitted,
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